

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.1085 OF 1987

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?
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SHRI RAMESHCANDRA SHIVLAL PATEL

VERSUS

THE SUPERINTENDING ENGINEER & ANR.

Appearance:

MR AJ VYAS for the Petitioner

MR LR PUJARI for the Respondents

Coram: S.K. Keshote,J

Date of decision:04/05/1998

C.A.V. JUDGMENT

Heard the learned counsel for the parties,

perused the Special Civil Application and affidavit-in-reply of the respondents.

2. The petitioner is an employee of the respondents in the workcharge establishment as Wireman. On this post he was given appointment on 25th December 1970. Under the order of the respondent dated 24th June 1981, the petitioner was promoted to the post of Electrician. Though this order of promotion has been made, the same has not been implemented and as such, the petitioner made a representation to the respondents for implementation of the said order. Under the order dated 20.2.84, annexure 'A' to the Special Civil Application, the petitioner has been informed that his order of promotion on the post of Electrician has been kept in abeyance as other employees have raised objections and on disposal of the same, necessary action shall be taken. Hence this Special Civil Application. Prayer has been made by petitioner for declaring the action of the respondent withholding the promotion of the petitioner vide order dated 20.2.84 to be illegal, null and void.

2. The respondents have filed reply to the Special Civil Application and the petitioner has not filed any rejoinder to the reply though a copy of the same has been received by learned counsel for the petitioner on 28th December 1988. In the reply, the respondents have given out that under the order dated 24th June 1981, the petitioner was ordered to be promoted to the post of Electrician without prejudice to the right of seniority of other Wiremen. One Shri B.B.Dave, Wireman, whose name appeared at Sr.No.1 in the seniority list raised an objection against the aforesaid order of promotion of the petitioner that the petitioner has been given promotion in disregard of seniority. After considering that objection the respondent has ordered of keeping the promotion order of the petitioner in abeyance and under the order dated 20th February 1984 the order dated 24th June 1981 promoting the petitioner to the post of Electrician has been cancelled.

3. The fact that Mr.Dave was senior to the petitioner in the category of Wiremen has not been controverted by the petitioner. Further fact that the petitioner's order of promotion was without prejudice to the seniority of other Wiremen has also not been controverted by the petitioner. In view of these facts, the order of promotion of the petitioner was certainly an incorrect order and the respondent has not committed any error in passing the order dated 20.2.84 cancelling the order of promotion of the petitioner on the post of

Electrician. None of the legal and fundamental rights of the petitioner are being infringed and the order impugned in this Special Civil Application is perfectly legal and justified.

4. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

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(sunil)